IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 20190 of 1994

Between:

P.Subrahmanyam, S/o. Suryanarayana,
R/o. Vijayawada.

..... PETITIONER

AND

1 Regional Joint Director of School Education, Kakinada, E.G.Dist.
2 S.T.B.E.M.High School, rep.by it's Correspondent, Bhavanarayana Street, Vijayawada-1.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus declaring that the action of the First respondent contained in Rc.No.259/A2/94 dt.6-8-1994, purporting to reject the appeal of the petitioner against the order of the Second respondent in dismissing the petitioner from service, without adjudicating the same on merits, is arbitrary and illegal and direct the 1st respondent to adjudicate the appeal filed by the petitioner against the order of dismissal issued by the second respondent School against5 the petitioner and allow the same relief to the petitioner as was granted to the other employees of the second respondent school, who were charged for the same misconduct with all the consequential benefits and expedite the hearing the W.P. and grant such other relief or reliefs as it deems fit in the circumstances of the case.

Counsel for the Petitioner: MR. B.SOMASEKHAR

Counsel for the Respondent No.1: GOVERNMENT PLEADER FOR SCHOOL EDUCATION.

Counsel for the Respondent No.2: MR.Y.RAMA RAO

The Court made the following:

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ORDER:

In the present writ petition, the petitioner questions the order of termination, dated 11.05.1985, as confirmed by the appellate authority by his proceedings in R.C.No.259/A2/94, dated 06.08.1994, and consequently, seeks a direction from this Court for his reinstatement as a Lower Division Clerk with all consequential benefits.

2. The petitioner along with one P.Gopala Krishna were served with show cause notice on 12.03.1995 as to why they should not be dismissed from out of service on the ground of misappropriation of certain amounts of the 2nd respondent-school. Initially, they were kept under suspension and subsequently on 11.05.1985, both the petitioner and the said Gopala Krishna were dismissed from out of service. The said Gopala Krishna approached this Court and filed W.P.No.10735 of 1990, wherein the learned single judge of this Court was pleased to allow the writ petition setting aside the order of dismissal. However, in appeal i.e., in W.A.No.1190 of 1995, a Division Bench of this Court by its order, dated 20.11.1995, while setting aside the judgment of the learned single judge has given a categorical finding in the following manner:-

> "We are satisfied that his confession is enough to disentitle him to any claim of reinstatement in service. We are also not satisfied that any lesser punishment will be adequate in the case of the writ petitioner-respondent No.1. It is a fit case, in our opinion, in which the second appellate authority's order should be affirmed and not interfered with. Learned single Judge has committed error of law in this behalf. The order passed by the learned single Judge is accordingly set aside and the order imposing punishment of dismissal from service is affirmed."

3. In view of the said judgment of the Division Bench, confirming the order of dismissal, this Court sees no merits in the present writ petition as the petitioner also admitted his guilt and made a confession. Accordingly, the writ petition is dismissed. No costs.

GOPALA KRISHNA TAMADA, J

05.08.2004

DR

To

1 Regional Joint Director of School Education, Kakinada,
East Godavari District.
2 S.T.B.E.M.High School, rep.by it's Correspondent,
Bhavanarayana Street, Vijayawada-1.

3 Two CCs to Government Pleader for School Education,

High Court Buildings, Hyderabad. (OUT)

4 Two CD copies.